

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NUMBER 00-6312-Cr-ROETTGER

UNITED STATES OF AMERICA.

Plaintiff,

vs.

LOWEN ESPINUEVA

Defendant.

JOINT MOTION FOR CONTINUANCE OF TRIAL DATE

The Defendant, **LOWEN ESPINUEVA**, by and through undersigned counsel, hereby files this Joint Motion for Continuance of Trial Date. In support, the Defendant states:

1. The Defendant is charged by indictment with a Conspiracy to Obstruct the Movement of Articles and Commodities in Commerce by Robbery, in violation of 18 U.S.C. section 1951(a) and 2, Attempted Obstruction of the Movement of Articles and Commodities in Commerce by Robbery, in violation of 18 U.S.C. 1951(a) and 2, and Using and Carrying a Firearm During and in Relation to a Crime of Violence Resulting in Serious Bodily Injury, in violation of 18 U.S.C. 924(c)(1) and 2.

2. On Wednesday, May 2, 2001, counsel for the Defendant received a Notice of Trial via facsimile transmission, setting this case for trial on Monday, May 14, 2001.

3. The Defendant moves for a continuance of the trial date due to the fact that he has not completed his pretrial investigation and preparation, and because counsel for the Defendant has conflicts in his trial schedule.



4. The case at bar involves the attempted armed robbery of two Brinks armored truck drivers in Coral Springs, Florida. The investigation by the Coral Springs Police Department and the Federal Bureau of Investigation has been "forensic intensive", including ballistics and firearms evidence, fingerprint analysis, hair and fiber analysis, serological and DNA testing, fluorescein analysis of blood, gunshot residue analysis and voice stress testing.

5. The primary evidence against the Defendant, Lowen Espinueva consists of latent fingerprints found on items of evidence discovered at the various crime scenes. Counsel has requested production of the copies of the latent fingerprints of the Defendant and standard fingerprints utilized for comparison purposes. However, production of those fingerprints has been delayed due to the nature of the objects from which they were obtained. Specifically, the most significant latent fingerprints were developed from the inside of latex gloves, which counsel believes were both powdered and unpowdered. Once the latent fingerprints were developed, they were photographed with a Polaroid Camera for comparison purposes, due to the unwieldiness of the latex gloves. In order to provide counsel with quality copies of the latent fingerprints, it is necessary to transfer them to a compact disc, which will provide good resolution for independent analysis and comparison. Until the Defendant has an opportunity to examine the latent and standard fingerprints, he will not be ready for trial.

5. Additionally, on May 14, 2001, Barry M. Wax, counsel for the Defendant is scheduled to commence trial in *United States of America v. Eduardo Lezcano, et al.*, case number 00-376-Cr-Lenard, in the United States District Court for the Southern District of Florida. That case involves four witness murders in the well known case of the *United States of America v. Sal Magluta and Willie Falcon, et al.* That case was previously scheduled for a trial date of March 12, 2001 by Judge Joan Lenard in August 2000. However, Judge Lenard has been



unavailable for trial since she has been presiding over a lengthy espionage trial which has exceeded all estimates of trial time. At a status conference on March 29, 2001, counsel was advised that the case is now "trailing" the espionage trial, and will commence upon the conclusion of the espionage trial.

6. Pursuant to Local Rule 88.9 (g) of the United States District Court for the Southern District of Florida, Barry M. Wax, counsel for the Defendant hereby certifies that he has discussed this Motion for Continuance of Trial with Thomas Lanigan, AUSA who not only does not object to the motion being granted but joins in the motion.

WHEREFORE, the Defendant, Lowen Espinueva, moves this Honorable Court to grant this Joint Motion for Continuance of Trial.

Respectfully submitted.

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BY: 

Barry M. Wax
Florida Bar No. 509485

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed to Thomas Lanigan, Assistant United States Attorney, 500 East Broward Boulevard, Fort Lauderdale, Florida 33394 and Daryl Wilcox, Assistant Federal Public Defender, 101 N.E. 3rd Avenue, Suite 202, Fort Lauderdale, Florida 33301 on this 30th day of May, 2001.

BY: 

Barry M. Wax

